

**PLANNING AND ZONING COMMISSION
STAFF REPORT**

July 6 of 2006



PV 06-10: Donald E. Ray

CASE DESCRIPTION: request for approval of a 4'4" variance from the minimum 7.5-foot rear building setback generally required on residential lots abutting another property or alley, to allow construction of a proposed detached accessory building, planned to extend within 3'2" from the rear (southwest) property line on the subject property

LOCATION: 809 Banks Avenue between Baker Avenue and South Hutchins Street in east central Bryan, Brazos County, Texas

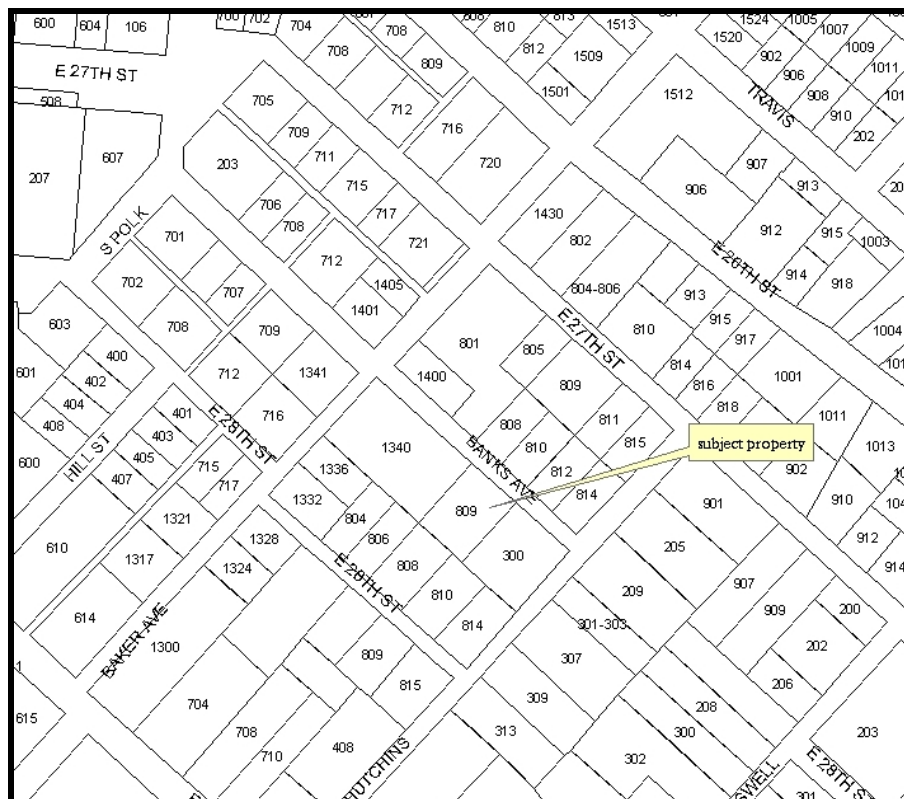
LEGAL DESCRIPTION: Lot 1 in Block 48 of Mitchell Addition

EXISTING LAND USE: single-family home

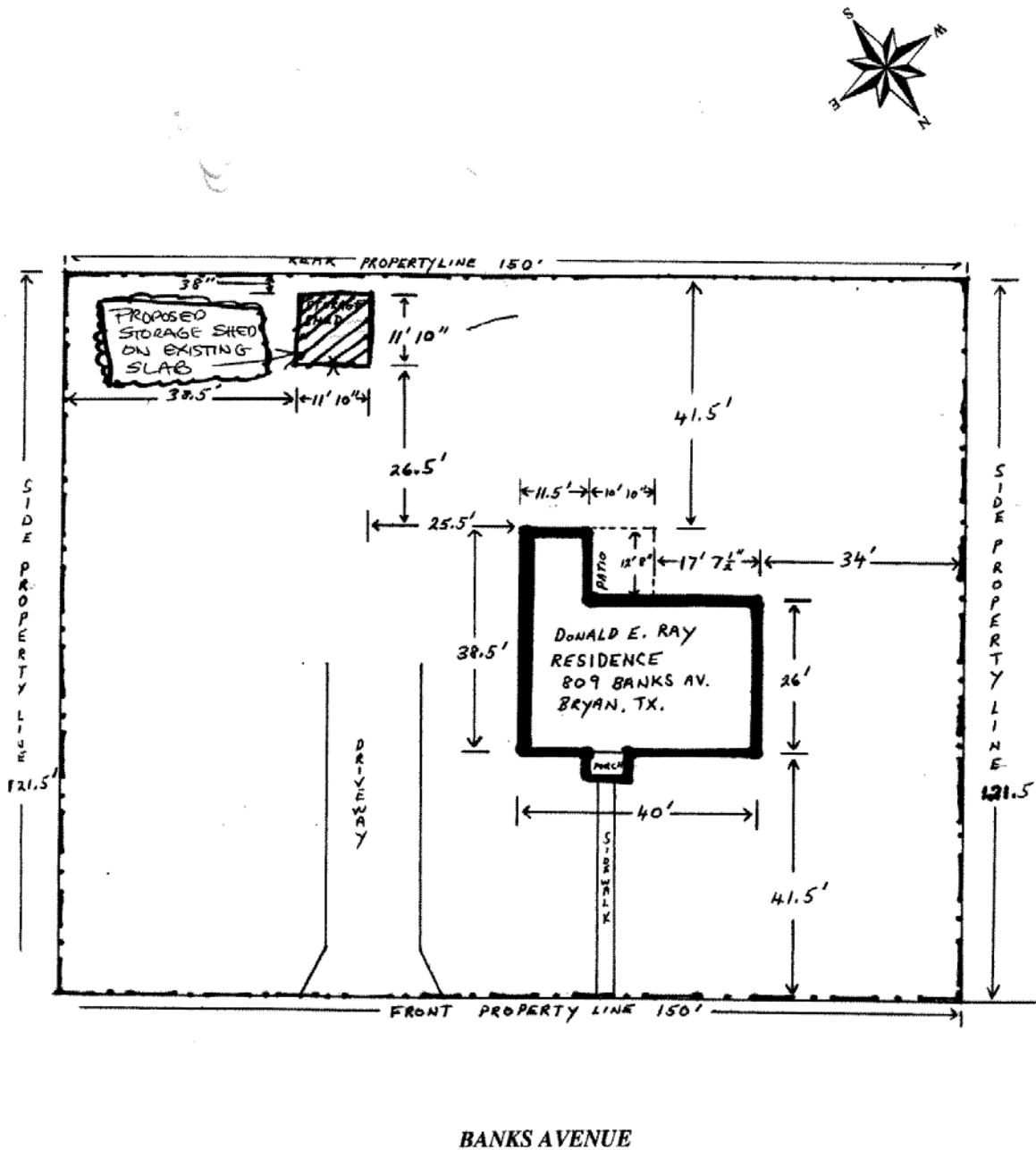
APPLICANT(S): Donald E. Ray

STAFF CONTACT: Martin Zimmermann, Project Planner

SUMMARY RECOMMENDATION: Staff recommends **denying** this request for variance.



site plan accompanying case no. PV 06-10: Donald E. Ray



BACKGROUND:

The applicant desires to construct a detached accessory building near the southwest (rear) property line on his property at 809 Banks Avenue. The proposed accessory building is planned to be built on top of an existing concrete foundation, which, until recently, was occupied by a detached accessory building of comparable size. That accessory building has been removed. The concrete foundation on which the new accessory building is planned to be constructed is situated only approximately 3'2" from this property's rear property line, where a minimum 7.5-foot building setback is generally required. The applicant is requesting a 4'4" variance from this standard, which, if approved will allow construction of the proposed accessory building on top of the exiting foundation.

ANALYSIS:

The Planning and Zoning Commission may authorize a variance from minimum building setback standards stipulated in the Land and Site Development Ordinance. No variance shall be granted unless the Planning and Zoning Commission finds that all of the following criteria are met:

1. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area (an area encompassing approximately a 200-foot radius);

Approval of this variance request would reduce the minimum building setback along the southwest property line on this property by almost 58 percent, from 7.5 feet to as few as 3'2". Staff believes that such a radical departure from established building setback standards would be detrimental in this particular environment. If routinely allowed on properties in this area such encroachments might lead to an overcrowding of land with buildings and, therefore, a gradual diminution in the value of neighborhood properties.

2. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property;

Building setback standards are intended to preserve residential ambience by guaranteeing a minimum degree of open space and preventing the overcrowding of land with buildings. Staff believes that allowing an accessory building so close to a property line creates a potentially harmful environment by increasing the risk of spread-of-fire incidents.

3. That the hardships and difficulties imposed upon the owner/applicant are greater than the benefits to be derived by the general public through compliance with the requirements of this chapter.

In this particular case, staff believes that enforcing the minimum 7.5-foot building setback will provide a comfortable margin of open space for the adjoining lot, prevent overcrowding of land with buildings and reduce danger from the possible spread of fire. It is important to note that there is ample room available on this property for the construction of one or more detached accessory buildings, in conformance with building setback regulations. Staff believes that cost or inconvenience to the applicant of strict or literal compliance with a regulation should not be the sole reason for granting a variance.

RECOMMENDATION:

Staff recommends **denying** this request for variance.